

Appln. No. 10/789,713  
Amendment dated September 6, 2005  
Reply to Office Action mailed May 5, 2005

REMARKS

Reconsideration is respectfully requested.

Claim 10 remains in this application. Claims 1 through 9 and 11 through 16 have been cancelled. No claims have been withdrawn. Claims 17 through 26 have been added.

The Examiner's rejections of the final Office Action will be considered in the order of their occurrence in the Office Action.

Part 1 of the Office Action

Claims 6, 10, and 13 have been rejected under 35 U.S.C. §112 (first paragraph) as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

It is stated in the Office Action that:

The snap and hook and loop components as seen in figures 3 and 4 and claimed in claims 6,10 and 13 have not been clearly described. It is not clear as to how the single component of a snap fastener mate with the garment when the garment has not been claimed as including the complementary fastener component. A fastening component on the apparel was not previously disclosed.

Claims 6 and 13 have been cancelled, and claim 10 has been amended to remove the recitation of "engagement means", and now recites "a fastening member on the interior surface of said flexible band, said fastening member being capable of selective fastening to a complementary fastening member on an item of apparel". It is submitted that one of ordinary skill in the art would understand how a fastening member could be attached to a complementary fastening element on apparel, and how the complementary fastening member could be attached to the apparel, as fastening members such as clip, snap, hook and loop fastener, etc. are commonly attached to apparel.

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Withdrawal of the §112 (first paragraph) rejection of claim 10 is respectfully requested.

**Parts 2 through 5 of the Office Action**

Claims 1, 2, 6, 7, 8, 11, and 13 through 15 have been rejected under 35 U.S.C. §102(b) as being anticipated by Smart.

Claims 3, 5, 10, 12, and 16 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Smart in view of Tomlinson.

Claims 1, 2, 6 through 8, and 11 through 13 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Breslow in view of Kalomeric.

Claims 3, 5, and 10 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Breslow in view of Kalomeric, and further in view of Tomlinson.

Claim 10, particularly as amended, requires "at least one illumination member operationally coupled to said flexible band". In the Office Action rejection of claim 10, it is stated that:

Breslow and Kalomeris discloses the invention substantially as claimed. However, They do not disclose the indicia and illumination members as claimed. Tomlinson discloses the indicia and illumination means as claimed (See Tomlinson, col. 7, lines 23-29).

However, the Tomlinson patent states, at col. 7, lines 18 through 28, that:

It will be apparent to those with skill in the art that there are many changes that may be made in the embodiments described above without departing from the spirit and scope of the invention. For example, although a decorated Loop has been described with lace decoration, use has been illustrated as worn by a woman, and heterosexual circumstances have been described, Loops could be decorated in many different ways attractive to males and females of any sexual persuasion, or not decorated at all. Loops may also be worn by anyone, and may be worn concealed, as a garter under other clothing, or may be worn overtly, such as an armband, with or without

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decoration or other indicia. Other indicia may include logos, printed matter and the like, as well as decoration with metals, jewels, and the like.

It will be appreciated that there is no mention here of any illumination member whatsoever, and it is submitted that one of ordinary skill in the art would not be led to the claimed illumination member by the disclosure of the Tomlinson patent.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Smart, Breslow, Kalomeric, and Tomlinson set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 10.

Withdrawal of the §103(a) rejection of claim 10 is therefore respectfully requested.

#### CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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